

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

RAFAEL SANCHEZ,

Plaintiff,

V.

L'OREAL USA, INC.,

Defendant.

Case No. 1:21-cv-3229-VEC-BCM

**NOTICE OF MOTION TO DISMISS THE
FIFTH CAUSE OF ACTION OF
PLAINTIFF'S COMPLAINT PURSUANT TO
FED. R. CIV. P. 12(b)(6)**

PLEASE TAKE NOTICE that Defendant L'Oreal USA, Inc. ("Defendant"), by and through its undersigned attorneys, shall move before the Honorable Valerie E. Caproni, U.S.D.J., for an order dismissing the Fifth Cause of Action of Plaintiff's Complaint (Doc. 1) with prejudice, pursuant to Fed. R. Civ. P. 12(b)(6) for failing to state a claim upon which relief can be granted.

PLEASE TAKE FURTHER NOTICE that in support of the Defendant's Motion, Defendant shall rely on the Memorandum of Law in Support of Defendant's Motion to Dismiss the Fifth Cause of Action of Plaintiff's Complaint with prejudice pursuant to Fed. R. Civ. P. 12(b)(6) and the Declaration of Counsel, submitted herewith.

PLEASE TAKE FURTHER NOTICE that a proposed Order granting Defendant's Motion is submitted herewith.

PLEASE TAKE FURTHER NOTICE that oral argument is hereby requested, if opposition is filed.

Dated: Murray Hill, NJ
July 7, 2021.

Respectfully submitted,

FISHER & PHILLIPS LLP
Attorneys for Defendant

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CERTIFICATE OF SERVICE

I certify that on the 7th day of July, 2021, I caused to be served, via the CM/ECF system, a true and correct copy of the foregoing Motion to Dismiss the Fifth Cause of Action of Plaintiff's Complaint pursuant to Fed. R. Civ. P. 12(b)(6), the supporting Memorandum of Law, and Declaration of Counsel, upon counsel for plaintiff registered to receive such notice.

Dated: Murray Hill, NJ
July 7, 2021.

/s/ David B. Lichtenberg
David B. Lichtenberg, Esq.